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Promotion and protection of human rights: implementation of human rights instruments

Letter dated 27 June 2016 from the Chargé d'affaires a.i. of the Permanent Mission of the Russian Federation to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of the statement made by the representative of the Russian Federation at the ninth session of the Conference of the States Parties to the Convention on the Rights of Persons with Disabilities (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the seventieth session of the General Assembly under agenda item 72 (a).

(*Signed*) P. **Ilichev**
Chargé d'affaires ad interim

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Annex to the letter dated 27 June 2016 from the Chargé d'affaires a.i. of the Permanent Mission of the Russian Federation to the United Nations addressed to the Secretary-General

Statement by the representative of the Russian Federation on 16 June 2016 at the ninth session of the Conference of the States Parties to the Convention on the Rights of Persons with Disabilities under the agenda item on interactive dialogue on implementation of the Convention between States parties and the United Nations system: celebrating the tenth anniversary of the adoption of the Convention on the Rights of Persons with Disabilities

We would like on this occasion to comment on recent developments relating to the Committee on the Rights of Persons with Disabilities, namely, the guidelines on the establishment of independent monitoring frameworks and the guidelines on State party periodic reporting modalities.

On the one hand, we note with satisfaction that the treaty body has agreed to share its working papers with stakeholders, in particular States. On the other hand, it is not entirely clear what status this so-called "open consultation process" has, if the Committee already adopted the draft guidelines during its fifteenth session in March-April 2016.

As for the documents themselves, a number of questions are raised by the legal basis of the initiative, the process of its formulation and its substantive content.

We cannot agree with the arbitrary manner in which the Committee on the Rights of Persons with Disabilities has interpreted provisions of the Convention, supposedly giving it the right to impose on States new obligations which are not stipulated in the treaty.

Thus, the draft guidelines on the establishment of independent monitoring frameworks and their participation in the Committee's work are based on a highly contentious interpretation of article 33 of the Convention ("National implementation and monitoring"). The Committee maintains that States parties should establish separate independent frameworks to monitor the Convention. At the same time, however, the Committee's experts have stated the view that national human rights institutions created in conformity with the Paris Principles are not well suited to this role: they point out that they are merely structural elements.

We do not subscribe to the Committee's view that these frameworks should participate on an equal footing with States in the consideration of periodic reports and should directly approach the Committee for advice — in other words, obviating the State concerned. In addition, it is proposed that these frameworks should be entrusted, together with the Committee, with investigating and prosecuting the harassment of individuals who cooperate with international human rights monitoring bodies.

We submit that such proposals not only undermine the role of States as the bodies responsible for ensuring implementation of the Convention, run counter to its article 32 on international cooperation and nullify the role of dialogue between States and the Committee, but are also ultimately intended to review the provisions of the Convention.

In this regard, we would like to recall that the Committee does not have the right to make any changes to the text of this international treaty. Under article 47 of the Convention, only States parties may propose amendments, which must be considered at a conference of States parties and approved by a two-thirds majority of those present and voting. At the same time, an approved amendment shall only be binding on those States parties which have deposited an instrument of acceptance of such amendment.

In addition, this novel idea by the Committee on the establishment of independent monitoring frameworks contradicts its own rules of procedure (CRPD/C/1) and working methods (CRPD/C/5/4).

While the second initiative by the Committee referred to earlier — the draft guidelines on the submission of national periodic reports to the Committee — is supposedly an updated version of the 2009 document, its substance is also highly contentious.

First, the simplified reporting procedure is voluntary; by no means all States parties have adopted the new format for their interaction with the Committee. Detailed information about the manner in which States parties use this procedure and the numbers that have already done so would be conducive to a better understanding of the effectiveness of the arrangements for the submission of periodic reports.

Second, the system of indicators used to assess implementation of the Convention which is proposed in the current version of the principles raises a number of questions. How were these indicators developed? If no information is available on some indicators, how will it be possible to assess compliance by States parties with specific articles of the Convention? We believe that implementation of the Convention should be assessed in qualitative rather than quantitative terms — in other words, by analysing the effect of specific measures taken by the State party.

In addition, elements of the 2030 Agenda for Sustainable Development should not be incorporated in the guidelines (it should be recalled that States are required to report on the implementation of the Convention).

In conclusion, we would like to recommend that the Committee make more rational use of the time allotted to it for meetings, focusing on eliminating the backlog of States parties' periodic reports. We understand that, in 2016, the Committee aims to consider 2.15 reports per week. That would certainly be a good rate. At the same time, however, by its resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system, the General Assembly recommends the review of at least 2.5 reports per week.